

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA : CR. Nos. 2009-4784-4786, 5898

V.

TYRON ALI

SEALING ORDER

AND NOW, this _____ day of April, 2014, upon consideration of the Commonwealth's Response in Full Support of Motions Filed By Various Media Groups to Intervene and Unseal All Judicial Records, and consistent with the Court's previous Sealing Order of November 8, 2013, it is hereby ORDERED that the attached Response and documents are SEALED and IMPOUNDED until further Order of this Court.

BY THE COURT:

TODD A. HOOVER, J.

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA : **CR. Nos. 2009-4784-4786, 5898**
v. :
TYRON ALI :

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**COMMONWEALTH'S RESPONSE IN FULL SUPPORT OF
MOTIONS FILED BY VARIOUS MEDIA GROUPS
TO INTERVENE AND UNSEAL ALL JUDICIAL RECORDS**

The Office of Attorney General, by and through its counsel, Attorney General Kathleen G. Kane, previously has filed for, and argued in support of, unsealing all judicial records in the above captioned matter, and therefore joins in full support of the motions filed by various media groups and associations to intervene and unseal all judicial records in this matter, and in support thereof avers as follows:

1. On September 12, 2013, defendant Tyron Ali, by and through his counsel Robert Levant, filed under seal a document entitled Motion to Disqualify and to Dismiss Case at CR Nos. 2009-4784, 2009-4786 and 2009-5898, and a reply memorandum, also under seal, on October 11, 2013. Defendant Ali's pleadings revealed an undercover investigation conducted at the Office of Attorney General (OAG) during three prior administrations (Attorney General Tom Corbett, Acting Attorney General William H. Ryan Jr. and Attorney General Linda Kelly) from approximately July of 2010 until April of 2012 in which defendant Ali acted as a confidential informant under the direct supervision of former Chief Deputy Attorney General (CDAG) Frank Fina.

2. In his pleadings, defendant Ali sought an order to disqualify all counsel at OAG and demanded the immediate dismissal of all criminal charges and other investigations against

him pursuant to the term of a November 30, 2012 plea agreement (titled a "Cooperation Agreement") which then CDAG Frank Fina drafted and executed shortly before the current OAG administration began in January 2013. As stated at page 1 in the defendant's Memorandum of Law in Support of his Motion to Disqualify and Dismiss Case, the November 30, 2012 plea agreement "call[ed] for the dismissal of all pending criminal charges against him."

3. OAG filed its response in opposition to defendant Ali's Motion to Disqualify and to Dismiss Case, also under seal, on October 4, 2013, demonstrating that OAG had no conflict warranting recusal, that OAG had undertaken a diligent and thorough review of the undercover investigation and Ali's criminal case, and that Ali had been unwilling to meet with and be debriefed by the new administration at OAG. Given Ali's refusal to honor his cooperation obligation - in direction violation of the terms of his November 30, 2012 plea - OAG wanted to nullify the plea agreement and argued it was not bound by former CDAG Fina's promise to dismiss all charges against Ali.

4. In response to the potential nullification of the plea agreement, defendant Ali, who was no longer actively involved as a cooperator with OAG, suddenly reversed his position in November 2013 and advised the Court and OAG that he now agreed to honor the terms of the November 30, 2012 plea agreement and be debriefed by OAG.

5. This change of position meant that defendant Ali was no longer in breach of the November 30, 2012 plea agreement former CDAG Fina wrote and signed. OAG recognized that the November 30, 2012 plea agreement was a legally enforceable contract and, as such, OAG was bound under the law by its terms.

6. Thus, an understanding was reached and an Order was issued by this Honorable Court on November 8, 2013 directing OAG to "execute" the terms of the November 30, 2012

plea agreement. The Court's Order stated that this "will include the entry of a *nolle prosequi* order for all charges," meaning all charges against defendant Ali in the above captioned matter were ordered to be dismissed.

7. Also pursuant to this Court's November 8, 2013 Order, defendant Ali was "permitted to withdraw all of his motions" and this Court deemed those motions withdrawn. Defendant Ali thereby withdrew his claim that OAG had a conflict and no finding of a conflict was made by the Court.

8. Also stated in the November 8, 2013 Order was this Court's "factual determination that it [was] in the interest of any ongoing investigations by any agency or entity, as well as in the interest of Mr. Ali individually that all information contained in sealed pleadings" in this matter remain sealed until further order of this Court.

9. The November 8, 2013 Order further stated that no party to this action or other individual with knowledge of the pleadings could disclose the existence of, or any material contained in, the referenced sealed pleadings without first obtaining leave of court.

10. On March 13, 2014, OAG filed a Motion to Permit Disclosure and Unseal Pleadings, seeking an unsealing order for all matters covered by the Court's original Sealing Order dated November 8, 2013. OAG's request to unseal was opposed by the defendant.

11. On March 14, 2014, this Court entered an order modifying its November 8, 2013 sealing order to permit the parties to comment publically on certain topics regarding this matter but not to disclose the identity of the defendant Tyron Ali as the confidential informant or reveal any identifying information about him.

12. Shortly thereafter, counsel for defendant sought to unseal all pleadings in this matter and OAG agreed *for a second time* to have all pleadings unsealed.

13. This Court granted the request to unseal on March 19, 2014, only to re-impose the sealing order the very next day – March 20, 2014 – at the request of the defendant’s counsel after Ali had received a telephone threat to his personal safety and was advised by other law enforcement officials (not OAG) to continue to maintain the Court’s records in a sealed status.

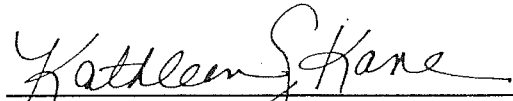
14. On March 31, 2014, Trib Total Media, Inc. (TTM”), publisher of the Pittsburgh Tribune-Review, and Brad Bumstead, a reporter employed by TTM, filed a Petition to Intervene and Motion to Unseal Transcripts in the above captioned case.

15. On April 2, 2014, the Philadelphia Media Network, LLC, the Associated Press, PA Media Group, PG Publishing Company, Lancaster Newspapers, The Morning Call, LLC, NBC Subsidiary (WCAU-TV), LLC, and the Pennsylvania Freedom of Information Coalition filed jointly a Petition to Intervene for the limited purpose of seeking access to judicial records in this matter. All petitioners are publishers and creators of newspapers, websites, television news, and other media, as well as an advocacy organization.

16. Given that the Attorney General repeatedly has filed for, and argued in support of, unsealing all judicial records in the above captioned case, and recognizes the public’s right of access under our Common Law, Pennsylvania Constitution, and First Amendment, the Office of Attorney General fully supports the petitions filed by members of the media to intervene and to unseal all filings in this case.

WHEREFORE, the Commonwealth respectfully requests, under all of the foregoing circumstances, that the Court issue an Unsealing Order for all matters covered by this Court's prior sealing orders.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathleen G. Kane", written over a horizontal line.

KATHLEEN G. KANE
Attorney General
Attorney No. 69680

OFFICE OF ATTORNEY GENERAL
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(717) 787-3391

DATE: April 7, 2014

VERIFICATION

The facts recited in the Commonwealth's Response in Full Support of the Media's Motions to Intervene and Motions to Unseal are true and correct to the best of my knowledge and belief. This statement is made with knowledge that a false statement is punishable by law under 18 Pa. C.S. § 4904(b).

BY:



BRUCE R. BEEMER

Chief Deputy Attorney General

Attorney No. 76148

**OFFICE OF ATTORNEY GENERAL
16th Floor, Strawberry Square
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(717) 787-3391**

DATE: April 7, 2014

CERTIFICATE OF SERVICE

Bruce Beemer hereby certifies that a true and correct copy of the Commonwealth's Response in Full Support of the Media's Motions to Intervene and Motions to Unseal has been caused to be served by e-mail and first class mail upon the following party:

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BRUCE BEEMER
Chief Deputy Attorney General
Attorney No. 76148

DATE: April 7, 2014